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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/887,887	06/22/2001	Vincenzo Tomarchio	CM2385	7950

27752 7590 07/02/2008
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EXAMINER

TORRES VELAZQUEZ, NORCA LIZ

ART UNIT	PAPER NUMBER
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1794

MAIL DATE	DELIVERY MODE
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07/02/2008

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 09/887,887	Applicant(s) TOMARCHIO ET AL.	
	Examiner Norca L. Torres-Velazquez	Art Unit 1794	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 16 June 2008.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-8, 10-12, 14-17, 19-24, 26-28 and 30-32 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-8, 10-12, 14-17, 19-24, 26-28 and 30-32 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Response to Amendment

1. Applicant's request for reconsideration of the finality of the rejection of the last Office action is persuasive and, therefore, the finality of that action is withdrawn. The Examiner has withdrawn the rejections over the combination of Jones '489 in view of ADAMS '187 as Jones teaches the use of an alkaline pH to obtain a satisfactory product while Adams teaches using an acid pH.

Claim Rejections - 35 USC § 103

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 1-8, 10-12, 14-17, 19-24, 26-28 and 30-32 are rejected under 35 U.S.C. 103(a) as being unpatentable over ADAMS et al. (US 4,117,187) in view of BORNHOEFT, III et al. (US 5,049,440).

ADAMS et al. discloses a premoistened wiper having high initial wet strength in a wetting liquid, and lower wet strength when immersed in substantially neutral water to allow for flushability. The wiper includes a nonwoven web of fibrous material which is bonded together by a polymeric adhesive binder, with the bonded web being moistened until the time of use by a wetting liquid having an acid pH level. (Abstract; Col. 2, lines 7-19) The reference teaches the inclusion of other ingredients in the wetting liquid, such as perfumes, bactericides, ethyl alcohol, emulsifiers and surfactants. (Col. 5, lines 13-17) The reference teaches the use of organic acid

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in an amount sufficient to maintain the liquid medium at a desired pH level. (Column 2, lines 35-38) Further, the ADAMS et al. reference teaches the use salts of polycarboxylic acid. (Column 5, line 32)

While ADAMS et al. teaches the use of bactericides and the inclusion of organic acids, it fails to specifically teach the use of an organic acid from the group consisting of citric acid, tartaric acid, lactic acid, and mixtures thereof.

BORNHOEFT, III et al. is directed to an anti-microbially active wet wiper product having a fibrous wipe and a liquid preservative composition for the wipe. (Abstract) The naturally occurring acid is preferably selected from the group consisting of citric acid, sorbic acid, tartaric acid, among others. (Col. 3, lines 43-48) The reference further teaches that the pH of the liquid preservative composition is preferably below about 3.5. (Col. 4, lines 5-6) The reference also teaches the use of fragrance compounds. (Refer to Col. 5, lines 26-33)

With regards to claims 7-8 and 23-24, ADAMS et al. teaches the use of wood pulp fibers. BORNHOEFT, III et al. shows that combination of natural and synthetic fibers or synthetic fibers alone are equivalent structures known in the art to construct webs for wet wipes (Refer to Col. 2, lines 31-45). Therefore, because these fiber constructions were art-recognized equivalents at the time the invention was made, one of ordinary skill in the art would have found it obvious to substitute the wood pulp fibers for 100% man-made (synthetic) fibers. It is further noted that the BORNHOEFT, III et al. also shows that spunlacing (hydroentanglement) is an alternative manufacturing technique to air-laying or wet-laying.

Since both references are directed to wet wipes, the purpose disclosed by BORNHOEFT, III et al. would have been recognized in the pertinent art of ADAMS et al.

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It would have been obvious at the time the invention was made to a person having ordinary skill in the art to use organic acid such as citric acid and tartaric acid as the acids in the wetting liquid of ADAMS et al. with the motivation of providing preservative effect without being harsh or irritating to the skin of the user as disclosed by BORNHOEFT, III et al. (Refer to Col. 3, lines 43-48)

Although the prior art above does not explicitly teach the claimed tensile strength, loading factor, absorption capacity and disintegration in anaerobic digestion, it is reasonable to presume that these properties are inherent to the wet wipe of ADAMS et al. in combination of BORNHOEFT, III et al. Support for said presumption is found in the use of like materials (i.e. web formed by techniques such as air-laying or wet-laying, or by spunlacing (hydroentanglement), and provided with a wetting liquid that has an acid pH.) [Refer Col. 3, lines 29-31 of ADAMS et al. and Col. 2, lines 52-60 of BORNHOEFT, III et al.] The burden is upon Applicant to prove otherwise. *In re Fitzgerald* 205 USPQ 594. In addition, the presently claimed properties tensile strength, loading factor, absorption capacity and disintegration in anaerobic digestion would obviously have been present once the wet wipe from the combination of ADAMS et al. and BORNHOEFT, III et al.] is provided. Note *In re Best*, 195 USPQ at 433, footnote 4 (CCPA 1977) as to the providing of this rejection made above under 35 USC 102. Reliance upon inherency is not improper even though rejection is based on Section 103 instead of Section 102. *In re Skoner, et al.* (CCPA) 186 USPQ 80

Response to Arguments

4. Applicant's arguments, filed 06/16/2008, with respect to the rejection(s) of claim(s) 1-8, 10-12, 14-17, 19-24, 26-28 and 30-32 under have been fully considered and are persuasive. Therefore, the rejection under 35 U.S.C. 103(a) over 103 Jones '489 in view of ADAMS '187 has been withdrawn. However, upon further consideration, a new ground(s) of rejection is made in over ADAMS et al. (US 4,117,187) in view of BORNHOEFT, III et al. (US 5,049,440).

5. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Norca L. Torres-Velazquez whose telephone number is 571-272-1484. The examiner can normally be reached on Monday-Thursday 8:00-5:00 pm and alternate Fridays.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Milton Cano can be reached on 571-272-1398. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Norca L. Torres-Velazquez/
Primary Examiner, Art Unit 1794

June 30, 2008